FARAD CONTINUATION SHEET

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 3071 OF 2004
IN
FIRST APPEAL NO. 941 OF 2004

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders

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Shri V.K. Nair, advocate for the Apellant.
Ms. Lalwani for the Respondents.

CORAM: A.S. OKA, J.
DATE : 31st August, 2004.

P.C.:-

1. Rule. Learned counsel for Respondent waives service. Taken up for hearing forthwith.

2. The impugned Judgment and decree is a money decree. Money decree has been passed in Summary Suit No. 2983 of 1987 filed by invoking the provisions of Order 37 Rule 2 of the Code of Civil Procedure, 1908. The execution of such decree cannot be stayed unless the entire decretal amount is deposited by the Appellant Defendant in the Trial Court. The learned counsel appearing

for the Appellant states that a sum of Rs.20,000/- has been deposited by the Appellant in the Trial Court on 21st March 1988 pursuant to an order granting conditional leave to defend in his favour. The Appellant will be entitled to adjustment of the said amount against the decretal amount.

3. Hence, Civil Application is disposed of by passing the following order.

ORDER

(i) There will be interim relief in terms of prayer clause (a) subject to condition of the Appellants depositing in the Trial Court the entire amount due and payable as of today as per the impugned Decree within a period of eight weeks from today.

(ii) The Appellants will be entitled to adjustment of sum of Rs.20,000/- deposited in the

Trial Court on 21st March, 1988 while calculating the decretal

amount.

(iii) If the amount is deposited by the Appellant in the Trial Court within the stipulated period, the Respondents will be entitled to withdraw the said amount on furnishing security to the satisfaction of the Trial Court.

(iv) In case the Respondents fails to withdraw the said amount within a period of six months from the date of deposit of the amount by the Appellant, the Trial Court will invest the same in fixed deposit in any nationalised bank. The fixed deposit shall be renewed from time to time till the final disposal of the Appeal.

4. In the event the Appellant fails to deposit the entire decretal amount within the stipulated period, the interim stay granted today will stand vacated automatically. There will be no orders as to costs.

SD/-

JUDGE